

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-30
)	(IEPA No. 532-01-AC)
CITY OF WENONA,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by M.E. Tristano):

On January 7, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against The City of Wenona (Wenona). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Wenona violated Sections 21(p)(1) , 21(p)(4) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(2000)). The Agency further alleges that Wenona violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, deposition of waste in standing or flowing water, and deposition of construction or demolition debris at property located northwest of Wenona near Interstate 39 and the Wenona Water Treatment Pond in Marshall County, Illinois. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the Agency served the administrative citation on Wenona within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406.

On July 5, 2002, the parties filed a stipulation of settlement and dismissal of respondent’s petition for administrative review. Pursuant to the terms of the proposed settlement, Wenona admits the violation of Section 21(p)(1) of the Act. Wenona agrees to properly dispose of the waste that was the subject of this Administrative Citation and to diligently comply with the Act and Board rules and regulations. The Board accepts the stipulation and proposed settlement. To effectuate the parties’ intent that Wenona pay a total penalty of only \$1,500, the alleged violation of Sections 21(p)(4) and 21(p)(7) of the Act is dismissed.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

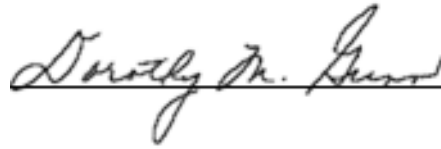
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violation of Sections 21(p)(4) and 21(p)(7) of the Act is dismissed. The Board finds that The City of Wenona violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 no later than August 11, 2002, which is the 30th day after the date of this order.
3. Wenona must pay the civil penalty by certified check or money order, made payable to The Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The number, case name, and Wenona's social security number or federal employer identification number must be included on the certified check or money order.
4. Wenona must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.3000(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board